IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 30TH OCTOBER 2007 / 8TH KARTHIKA 1929

Crl.Rev.Pet.No. 940 of 2002()

CRA.202/2000 of SESSIONS COURT, KOZHIKOE
CC.417/1996 of JUDL.MAGISTRATE OF FIRST CLASS, PERAMBRA
.....

REVN. PETITIONER: APPELLANT/ACCUSED

MOHAMMED ISMAIL,
PERUMPALLI HOUSE,
POST N.S.S. COLLEGE,
MANJERI.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS: RESPONDENT/COMPLAINANT & STATE
----

1. **THE CIRCLE INSPECTOR OF POLICE,**
   CITY TRAFFIC POLICE STATION,
   KOZHIKODE.

2. **THE STATE OF KERALA,**
   REPRESENTED BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA,
   ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 30/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.R.P.No.940 of 2002

Dated this the 30th day of October, 2007

O R D E R

The accused stands convicted for the offences under Sections 279, 337, 338 and 304(A) IPC and sentenced to undergo simple imprisonment for three months each for the offences under Sections 279 and 337 IPC and to undergo simple imprisonment for one year each for the offences under Sections 338 and 304(A) IPC and that the sentences shall run concurrently and also that the accused shall be disqualified from driving the motor vehicles for a period two years under Section 20(1) of the M.V. Act.

2. The prosecution case is that the accused/revision petitioner on 21.6.1990 at about 9.30 a.m. drove the stage carriage bus bearing registration No.KRF.9408 through Kozhikode - Ramanattukara road in a rash and negligent manner so as to endanger human life and dashed against a jeep bearing registration No.KLL.7631 which came from the opposite direction and driven by the deceased and that driver of the jeep

succumbed to the injuries at Medical College Hospital, Kozhikode. PW8 one of the passengers of the jeep sustained grievous hurt and PWs' 1 to 5 and 7, the other passengers in the jeep, sustained simple injuries.

3. Counsel for the revision petitioner has only sought for modification of the sentence. It is pointed out that about 18 years have elapsed since the commencement of the proceedings and that so far the accused was facing the ordeal of criminal proceedings. It is also pointed out that the earning of the accused is the sole means of livelihood of his family.

4. Hence, I find that considering the long lapse of time it would not be appropriate to order imprisonment. Hence, the conviction is confirmed and the sentence imposed for the offence under Section 304(A) IPC is modified to imprisonment till the rising of the court and to pay a compensation of Rs.20,000/- to the legal representatives of the deceased Muhammedali and in default, to undergo simple imprisonment for six months. Punishment for the offence under Section 338 IPC is modified to imprisonment till the rising of the court and to pay a compensation of Rs.10,000/- to PW8 and in default, to undergo

simple imprisonment for three months. The revision petitioner is granted four months' time to remit the amount of compensation. He shall appear before the Judicial First Class Magistrate Court-V, Kozhikode on 29.2.2008 to receive sentence.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl